FARAD CONTINUATION SHEET No.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE.

APPEAL FROM ORDER NO.676 OF 2004.

Office Notes,Office Memoranda of Coram, appearnaces,Courts's orders or directions and Registrar's orders.	:	Court's or Judge's orders

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Shri P.K.Dhakephalklar for the appellant.

Shri A.A. Kumbhakoni for the respondents.

CORAM: V.C.DAGA,J.

DATED: 18-08-2004.

P.C.:

. Heard learned Counsel for the appellant. Perused appeal memo with documents annexed thereto.

2. This appeal is directed against the order dated 19th December 2003 whereby Notice of Motion was made absolute in terms of prayer clause (a) of the Notice of Motion bearing N.M. No. 2417 of 2003.

3. The facts in nutshell are that the present appellant-original plaintiff has filed suit for declaration and injunction

so as to restrain defendant No.2 from in any manner entering into and/or occupying, staying, residing and setting up family along with defendant No.1 in two flats one, bearing Flat No. A-201, Aishwarya Co-operative Housing Society , near MHADA Telephone Exchange, S.V.P.Road, Versova village, Andheri (W), Mumbai- 400056 and another bearing Flat No.93, Gorai Skylark Co-operative Housing Society, Plot No.93, Rs.C.48, Boirivali (W), Mumbai- 00 092.

3. The trial Court, after hearing the parties to the suit, did not grant interim relief as prayed above but restrained respondent Nos. 1 to 6 from creating any third party interest in the said properties/flats referred to hereinabove. This order to the extent it refuses to grant interim relief is a subject matter of challenge in this appeal.

4. Having heard rival parties, appellant is residing in a flat, owned by her husband, located in Saikrupa Cooperative Housing Society Ltd. at Andheri (W), along with her foster son and daughter. It is not that appellant has no place to

reside. In order to protect interest of the appellant the trial Court has injuncted the respondent from creating third party interest.

5. The order of the trial Court is a well reasoned and balance order. It takes care of residence of both parties. It will be impossible for two warring groups to stay together. The view taken by the trial Court is a practical, reasonable and possible view in the facts and circumstances of the case. No case is made out to interfere with the impugned interim order. In the result, appeal is dismissed in limine with no order as to costs.